

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Criminal Action No.
	)	10-00027-01-03-CR-W-ODS
MICHAEL K. SCOTT,	)	
and	)	
WOODROW McCOY,	)	
	)	
Defendants.	)	

**MEMORANDUM OF MATTERS DISCUSSED AND  
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on October 12, 2011. Defendant Scott appeared in person and with appointed counsel John Picerno. Defendant McCoy appeared in person and with appointed counsel Susan Hunt. The United States of America appeared by Assistant United States Attorneys Bruce Clark and Joseph Vanover.

***I. BACKGROUND***

On February 3, 2010, an indictment was returned containing the following charges:

(1) Count One (Defendant Scott) - Bank Robbery, in violation of 18 U.S.C. § 2113(a), (d);

(2) Count Two (Defendant Scott) - Use of a Firearm During a Crime of Violence, in violation of 18 U.S.C. § 924(c) and 2; (3) Count Three (Defendant Scott) - Bank Robbery, in violation of 18 U.S.C. § 2113(a), (d); (4) Count Four - Use of a Firearm During a Crime of Violence,

in violation of 18 U.S.C. §924(c) and 2; (5) Count Five (Defendants Scott and McCoy) - Bank Robbery, in violation of 18 U.S.C. § 2113(a),(d); (6) Count Six (Defendants Scott and McCoy) - Use of a Firearm During a Crime of Violence, in violation of 18 U.S.C. § 924(c); (7) Count Seven (Defendant Scott) - Felon in Possession of a Firearm, in violation of 18 U.S.C. §§ 922(g)(1), 924(e); and (8) Count Eight (Defendant McCoy) - Felon in Possession of a Firearm, in violation of 18 U.S.C. §§ 922(g)(1), 924(e).

Counts Five - Eight have been severed (Doc. No. 145). The parties will try these counts first. Counsel for Defendant Scott will let the Court know by Friday, October 15, 2011, if Defendant wishes to immediately try the remaining counts or wait until the November 28, 2011 trial docket.

The following matters were discussed and action taken during the pretrial conference.

## ***II. TRIAL COUNSEL***

Mr. Clark announced that he and Mr. Vanover will be the trial counsel for the government. The case agent to be seated at counsel table is FBI Special Agent Leena Ramana. Detective Joe Daneff, KCPD, and paralegal Giovan Aloisio will also be seated at counsel table.

Mr. Picerno announced that he will be the trial counsel for Defendant Scott.

Ms. Hunt announced that she will be the trial counsel for Defendant McCoy.

## ***III. OUTSTANDING MOTIONS***

The following motions remain pending:

- Defendant Scott's Motion to Suppress (Doc. No. 65); *R&R filed 10/03/11 (Doc. No. 140)*;
- Defendant Scott's Motion to Suppress Identification (Doc. No. 100); *R&R filed 10/03/11 (Doc. No. 141)*;
- Defendant Scott's Motion to Suppress Statements (Doc. No. 101); *R&R filed 10/03/01 (Doc. No. 142)*;
- Defendant McCoy's Motion to Suppress Identification Testimony (Doc. No. 74); *R&R filed 09/28/11 (Doc. No. 138)*.

#### ***IV. TRIAL WITNESSES***

Mr. Clark announced that the government intends to call 20 witnesses without stipulations or 15 witnesses with stipulations during the trial.

Mr. Picerno announced that Defendant Scott intends to call 3-4 witnesses during the trial. Defendant Scott may testify.

Ms. Hunt announced that Defendant McCoy does not intend to call any witnesses during the trial. Defendant McCoy may testify.

#### ***V. TRIAL EXHIBITS***

Mr. Clark announced that the government will offer approximately 130 exhibits in evidence during the trial.

Mr. Picerno announced that Defendant Scott will not offer any exhibits in evidence during the trial.

Ms. Hunt announced that Defendant McCoy will not offer any exhibits in evidence during the trial.

***VI. DEFENSES***

Mr. Picerno announced that Defendant Scott will rely on the defense of general denial.

Ms. Hunt announced that Defendant McCoy will rely on the defense of general denial.

***VII. POSSIBLE DISPOSITION***

Mr. Picerno stated this case is definitely for trial.

Ms. Hunt stated this case is probably not for trial. If the case as to Defendant McCoy is resolved, the severance will be rendered moot and the entire case against Defendant Scott can be tried together.

***VIII. STIPULATIONS***

Stipulations are likely as to prior felony convictions.

***IX. TRIAL TIME***

Counsel were in agreement that this case will take 4 days to try.

***X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS***

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed July 26, 2010, counsel for each party file and serve a list of exhibits he or she intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by or before October 12, 2011;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, October 19, 2011;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions<sup>1</sup> by or before noon, October 19, 2011. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

***XI. UNUSUAL QUESTIONS OF LAW***

There are no unusual questions of law. Defendant Scott will file motions in limine concerning the relevance of 10-15 exhibits and about 404(b) evidence.

***XII. TRIAL SETTING***

All counsel and the defendants were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on October 24, 2011.

/s/ Robert E. Larsen  
ROBERT E. LARSEN  
United States Magistrate Judge

Kansas City, Missouri  
October 12, 2011

cc: Mr. Kevin Lyon

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<sup>1</sup>Counsel in all cases assigned to be tried before Chief Judge Fernando Gaitan, Jr., as reflected in the trial letter, shall meet and prepare a packet of agreed proposed jury instructions to be submitted to Judge Gaitan and e-mailed to rhonda\_enss@mow.uscourts.gov and marylynn\_shawver@mow.uscourts.gov by October 21, 2011. To the extent there are disagreements to certain instructions, each attorney shall tab and submit his or her preference on those instructions. The instructions shall be listed in the order they are to be given.